Paper No. 19

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte WILLI B. HENSEL

Appeal No. 1999-1487
Application No. 08/591,599

ON BRIEF

Before COHEN, STAAB, and CRAWFORD, Administrative Patent Judges.

COHEN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1 through 6 and 9 through 11. Claims 7 and 8 are objected to but otherwise are allowable. These claims constitute all of the claims in the application.

Appellant's invention pertains to a working chair. A basic understanding of the invention can be derived from a

reading of exemplary claim 1, a copy of which appears in the APPENDIX to the main brief (Paper No. 15).

As evidence of anticipation and obviousness, the examiner has applied the documents listed below:

Hinrichs	4,773,706	Sep. 27, 1988
Klaebel	5,261,727	Nov. 16, 1993

The following rejections are before us for review.

Claims 1 through 3 and 9 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Hinrichs.

Claims 4, 5, 10, and 11 stand rejected under 35 U.S.C. § 103 as being unpatentable over Hinrichs.

Claim 6 stands rejected under 35 U.S.C. § 103 as being unpatentable over Hinrichs, as applied to claim 1 above, further in view of Klaebel.

The full text of the examiner's rejections and response to the argument presented by appellant appears in the answer (Paper No. 16), while the complete statement of appellant's argument can be found in the main and reply briefs (Paper Nos. 15 and 17).

OPINION

In reaching our conclusion on the issues raised in this appeal, this panel of the board has carefully considered appellant's specification and claims, the applied teachings,[1] and the respective viewpoints of appellant and the examiner. As a consequence of our review, we make the determinations which follow.

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[1] In our evaluation of the applied prior art, we have considered all of the disclosure of each document for what it would have fairly taught one of ordinary skill in the art. See In re Boe, 355 F.2d 961, 965, 148 USPQ 507, 510 (CCPA 1966). Additionally, this panel of the board has taken into account not only the specific teachings, but also the inferences which one skilled in the art would reasonably have been expected to draw from the disclosure. See In re Preda, 401 F.2d 825, 826, 159 USPQ 342, 344 (CCPA 1968).

We cannot sustain the examiner's respective rejections of appellant's claims.

The examiner considers the Hinrichs patent to be anticipatory of the working chair recited in independent claim 1.

Claim 1 sets forth a particular arrangement of specified structural components of a working chair whereby a seat is movable from a backwards declining rest position in which a front edge of the seat is displaced backwards and downwards with respect to a carrier frame to a forward declining extreme position, in which the front edge of the seat is displaced forwards and upwards with respect to the carrier frame.

A review of the overall teaching of Hinrichs reveals to us a chair with a pivotal arrangement of components enabling a seat to be in a basic position G along a horizontal plane X-X (Figs. 1 and 4) or in an inclined position N (Figs. 1, 3, and 4) wherein a front plate part 5 is located in a diagonal plane

Y-Y and a rear plate part 7 is located in a diagonal plane Z-Z. The patentee also indicates that all intermediate positions are possible (column 3, lines 4 through 7).

Like appellant (main brief, pages 7, 8, and 10 and reply brief, page 3), we do not discern an express teaching in Hinrichs of a chair capable of tilting forward, as claimed (forward declining extreme position).[2] Further the examiner has not established that the chair arrangement of Hinrichs is inherently capable of the range of movement of claim 1.[3] As pointed out by appellant (reply brief, page 3), the examiner has been silent on the range of motion set forth in claim 1

[2] From the background portion of appellant's specification (pages 1 through 3), it appears that the claimed range of movement between backwards inclining and forwards inclining positions is known in the chair art.

[3] Anticipation under 35 U.S.C. § 102(b)is established only when a single prior art reference discloses, either expressly or under principles of inherency, each and every element of a claimed invention. See In re Schreiber, 128 F.3d 1473, 1477, 44 USPQ2d 1429, 1431 (Fed. Cir. 1997); In re Paulsen, 30 F.3d 1475, 1478-79, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994); In re Spada, 911 F.2d 705, 708, 15 USPQ2d 1655, 1657 (Fed. Cir. 1990); and RCA Corp. v. Applied Digital Data Sys., Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir. 1984).

that was argued as not being disclosed by Hinrichs. Since claim 1 is not anticipated by the evidence, the rejection thereof under 35 U.S.C. § 102(b) cannot be sustained.

As to the respective rejections of the dependent claims under 35 U.S.C. § 103, we determine that the rationales thereof, and the addition of the Klaebel teaching, do not overcome the underlying deficiency of the Hinrichs disclosure, as described above. Thus, the obviousness rejections cannot be sustained.

In summary, this panel of the board has not sustained the respective rejections of appellant's claims under 35 U.S.C. § 102(b) and 35 U.S.C. § 103.

The decision of the examiner is reversed.

REVERSED

IRWIN CHARLES COHEN Administrative Patent Judge	)
LAWRENCE J. STAAB Administrative Patent Judge	) BOARD OF PATENT) APPEALS) AND) INTERFERENCES
MURRIEL E. CRAWFORD Administrative Patent Judge	)

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